

1 NICHOLAS W. BROWN
2 Attorney General of Washington
3 TERA M. HEINTZ, SBN #241414
4 Deputy Solicitor General
5 Solicitor General's Office
1125 Washington Street SE, PO Box 40100
Olympia, WA 98504-0100
(360) 753-6200
Tera.Heintz@atg.wa.gov
Atorneys for Plaintiff State of Washington

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
AT SAN FRANCISCO**

9 AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES, AFL-CIO,
10 et al.,

11 || Plaintiffs,

12 | v.

13 UNITED STATES OFFICE OF
PERSONNEL MANAGEMENT, et al.,

NO. 3:25-cv-01780-WHA

DECLARATION OF JENNIFER
HENNESSEY

Defendants.

1 I, Jennifer Hennessey, declare as follows:

2 1. I am over the age of 18, competent to testify as to the matters herein, and make
 3 this declaration based on my personal knowledge.

4 2. I am the Special Assistant to the Director of the Department of Ecology. I have
 5 been in this position for two years, focusing on climate resilience. I have a Master of Science
 6 degree in Marine Resource Management from Oregon State University. Prior to my current
 7 position, I spent over 15 years working on ocean policy and planning for Ecology and the
 8 Washington State Governor's Office.

9 3. Ecology is the administrative agency tasked with implementing and enforcing
 10 environmental laws and regulations in the state of Washington. This mandate includes both state
 11 and federal environmental policies.

12 4. I focus here on two crucial federal programs, both of which require Ecology to
 13 partner closely with the National Oceanic and Atmospheric Administration (NOAA) and both
 14 of which have been disrupted by recent cuts to NOAA staff.

15 **Olympic Coast National Marine Sanctuary**

16 5. Ecology works closely with the Olympic Coast National Marine Sanctuary
 17 (NMS). The Olympic Coast NMS conducts research on Washington's outer coast to support
 18 natural resource management, track changes in ocean conditions, and forecast future trends.

19 6. The Olympic Coast NMS is part of the NMS system, which Congress established
 20 in 1972. As Congress explained, one of the purposes of an NMS is "to develop and implement
 21 coordinated plans for the protection and management of [the designated] areas with appropriate
 22 Federal agencies, state and local governments, Native American tribes and organizations,

1 international organizations, and other public and private interests concerned with the continuing
 2 health and resilience of these marine areas.” 16 U.S.C. § 1431(b)(7). One of the standards for
 3 designating an NMS is that “existing State and Federal authorities [for the designated area] are
 4 inadequate and should be supplemented to ensure coordinated and comprehensive conservation
 5 and management of the area, including resource protection, scientific research, and public
 6 education.” 16 U.S.C. § 1433(a)(3).

7 7. The Olympic Coast NMS is an illustration of how federal and state agencies work
 8 together to fulfill Congress’s mandate. In 1994, NOAA designated around 3,000 square miles
 9 off the Washington coast as the Olympic Coast NMS. In its designation, NOAA described the
 10 sanctuary as “a highly productive, nearly pristine ocean and coastal environment that is
 11 important to the continued survival of several ecologically and commercially important species
 12 of fish, seabirds, and marine mammals.” Olympic Coast National Marine Sanctuary Regulations,
 13 59 Fed. Reg. 24,586, 24,604 (May 11, 1994). NOAA now manages the NMS.

14 8. The Olympic Coast NMS is the home of valuable fisheries and shellfish beds,
 15 which generate millions of dollars in commercial and recreational economic activity every year.
 16 Four coastal Tribes (the Hoh, Makah, Quinault, and Quileute) have treaty rights and co-manage
 17 fisheries in the area.

18 9. In addition to being valuable and productive, the Olympic Coast NMS is also
 19 vulnerable and sensitive to natural and manmade changes, including low oxygen events, marine
 20 heat waves, harmful algal blooms, and ocean acidification. These changes impact the safe and
 21 sustainable harvest of fish and shellfish.

22
 23

1 10. Importantly, Washington does not have observational or monitoring assets for a
 2 significant area of its coast, from Cape Flattery south to Copalis. Thus, Ecology relies heavily
 3 on federal datasets generated by the Olympic Coast NMS, which covers this region.

4 11. The Olympic Coast NMS's important work is conducted by a small staff. This
 5 work was recently disrupted when the NMS's staff shrank even further due to staffing cuts at
 6 NOAA.

7 12. First, the Olympic Coast NMS currently has no Research Coordinator. The
 8 previous Research Coordinator retired in 2024. After a lengthy and competitive recruitment
 9 process, the position was offered to and accepted by a scientist who was scheduled to start
 10 February 9, 2025. But this offer has since been rescinded, and the position is now vacant.

11 13. Further, the Olympic Coast NMS lost two important staffers: its only Marine
 12 Scientist and an Outreach and Education Specialist. Both were on probationary service and
 13 subsequently cut on February 27, 2025.

14 14. These cuts strain the ability of the Olympic Coast NMS to fulfill its congressional
 15 mandate. For example, NOAA has already signaled to a sister agency of Ecology's that it will
 16 not be able to assist as usual with scientific surveying of coastal kelp forests. Kelp is an important
 17 habitat that supports healthy ocean ecosystems, fish, and wildlife. The status of Washington's
 18 kelp forests is an important indicator of environmental change that may be threatening the
 19 sustainability and health of our ocean resources. A decline in kelp habitat could signal other
 20 cascading declines or shifts in fish and wildlife populations. Thus, reduced capacity for
 21 surveying the health of Washington's coastal kelp forests impedes the state's ability to anticipate
 22 and respond to changes in this critical habitat.

23

1 15. Similarly, the loss of the NMS's Outreach and Education Specialist harms
 2 Washington and its residents. In the past, the Specialist provided extensive programming on the
 3 Olympic Peninsula to the four Tribes that rely on resources within the NMS and other local
 4 communities. In addition to presenting at community events, the Specialist also conducted ocean
 5 science programming at local schools. This work reached people living in a remote area of the
 6 state that Ecology and its sister agencies do not always have the resources to reach.

7 **Ocean Acidification Program and Pacific Marine Environmental Laboratory**

8 16. In addition to working with NOAA on the Olympic Coast NMS, Ecology also
 9 partners extensively with NOAA's Ocean Acidification Program (OAP) and with regional
 10 NOAA scientists at the Pacific Marine Environmental Laboratory (PMEL).

11 17. OAP was established by the Federal Ocean Acidification Research and
 12 Monitoring Act (FOARAM) in 2009. Under FOARAM, NOAA has a mandate to maintain a
 13 program on the growing crisis of ocean acidification—that is, changes in the water chemistry of
 14 oceans, estuaries, and the Great Lakes. Ocean acidification has serious impacts on marine
 15 organisms and ecosystems, as well on the human activities that rely on those organisms and
 16 ecosystems. Thus, Congress has instructed NOAA to, through OAP, “conduct research,
 17 monitoring, coordination, and other activities” designed to understand and combat this problem.
 18 33 U.S.C. § 3705(a). PMEL, similarly, conducts ocean research on issues that include ocean
 19 acidification.

20 18. This work is especially important in Washington, which was the first state to
 21 document firsthand impacts of ocean acidification. Between 2005 and 2009, ocean acidification
 22
 23

1 killed young oyster larvae that are critical to Washington's shellfish industry. This, in turn, put
2 at risk the tens of thousands of jobs and billions of dollars linked to this industry.

3 19. In 2012, Ecology participated in the development and implementation of
4 Washington's Ocean Acidification Action Plan, which was updated in 2017. Today, Ecology
5 continues to play an active role in implementing this plan with a range of partners in the state.

6 20. Washington has also established the country's only state-based ocean
7 acidification monitoring program, which is administered by Ecology, and continues to be on the
8 leading edge of addressing this issue. Every month, Ecology collects forty-nine ocean
9 acidification samples from twenty-eight stations.

10 21. Ecology's samples are sent to PMEL for analysis because PMEL is the only
11 laboratory in the region capable of reliably achieving the degree of precision necessary for
12 detecting the long-term effects of anthropogenic carbon in Washington's waters.

13 22. For over a decade, OAP and NOAA have been invaluable partners in this work,
14 helping Washington develop an integrated response to the threat of ocean acidification. In fact,
15 it was a well-respected NOAA scientist in the region who helped identify the cause of the oyster
16 mortality and bring attention to the issue.

17 23. NOAA's work continues to support our understanding of broader ocean
18 acidification trends along the West Coast. Ecology and Washington benefit greatly from
19 coordinating with NOAA on scientific research, monitoring, and implementation of actions that
20 help address and respond to ocean acidification. And OAP, at a national level, facilitates state-
21 to-state exchange of information and learning. This collaboration ensures Ecology is informed
22 of new methods, best practices, and new scientific findings. This information assists Ecology in
23

1 making decisions on where to invest its own scientific resources and aids its policy and
2 management decisions.

3 24. NOAA and OAP grants have also funded work in Washington conducting
4 regional vulnerability analyses. To conduct these analyses, researchers from NOAA and
5 Washington's academic institutions worked with the four Tribes on the Olympic Peninsula to
6 assess how ocean acidification may impact species on which the Tribes rely. A preliminary
7 assessment has been completed.

8 25. Despite this productive partnership, OAP is now itself under threat. In 2024,
9 OAP's previous director left and was replaced by a new director. The new director was on
10 probationary status, however, and was cut on February 27, 2025. OAP now has no director.

11 26. Three NOAA researchers at PMEL were on probationary status and have been
12 cut. One helped train chemists, maintain analytical equipment, and manage data. Another was
13 processing samples, including those collected by Ecology. The third was responsible for helping
14 analyze scientific data and share information about ocean acidification with stakeholders,
15 including fisheries managers. This information included how ocean acidification varies in the
16 region, what the rates of change are, and estimates of future conditions. All three of these
17 researchers also played important roles in coordinating and conducting field work, as described
18 below.

19 27. A probationary OAP researcher working on marine carbon dioxide removal was
20 also cut.

21 28. Finally, the well-respected scientist who helped identify and bring attention to the
22 impact of ocean acidification on oyster mortality has been asked to retire.
23

1 29. These cuts—and any additional cuts—greatly impact NOAA’s ability to carry
2 out its congressional mandate. They also harm Washington and its residents.

3 30. Ecology relied on the recently cut NOAA and PMEL staff to process its data.
4 There is only one scientist remaining at PMEL who can process Ecology’s monthly samples.
5 However, because PMEL also processes data for the rest of NOAA, academic partners, and other
6 institutions, Ecology’s samples may not be processed in a timely manner. This would delay
7 delivery of important information on the status and health of our marine waters.

8 31. There are no alternatives or back-ups for this data processing, which again, must
9 be done at a level of precision that only PMEL offers. The work conducted by those staffers was
10 truly irreplaceable, and Washington implemented its one-of-a-kind monitoring program
11 expecting and relying on PMEL’s assistance.

12 32. Moreover, Ecology’s ocean acidification monitoring efforts and NOAA’s work
13 are intended to complement each other. Ecology relies on NOAA to help collect, process, and
14 share data on ocean acidification across the region. Because Ecology does not collect the same
15 data that NOAA does, it relies on NOAA’s data to put its own findings in context.

16 33. For example, in 2025, NOAA is scheduled to conduct extensive field work along
17 the West Coast, collecting updated information on ocean acidification conditions. The data
18 collected through this trip will provide Ecology with critical context for its own data. The trip
19 thus facilitates decision-making for managing the state’s shellfish, the shellfish industry, and
20 water quality more generally.

21 34. This trip is conducted every four years, requires extensive planning, and involves
22 federal scientific experts. However, one of the PMEL staff members who was recently cut was
23

1 the co-chief scientist for this trip. Another was the lead technical staff member for coordinating
 2 logistics for that trip. Thus, the recent PMEL cuts have threatened the success, and even the
 3 existence of, this important source of data.

4 35. Finally, the uncertainty caused by NOAA's reduced capacity jeopardizes Ecology
 5 and its partners ability to combat ocean acidification moving forward. For example, Washington
 6 experts are currently in the process of applying for a second round of NOAA funding to conduct
 7 an expanded regional vulnerability analysis that would focus on identifying and modeling near-
 8 term impacts on tribal natural resources. But the recent cuts make it difficult for Washington to
 9 discern how to invest its own resources in these important projects.

10 36. For over a decade, Ecology and its sister agencies have invested significant
 11 resources in projects that depend on NOAA assistance and that, in turn, contribute to NOAA's
 12 ability to fulfill its congressional mandates. Because neither Ecology nor any other entity in
 13 Washington received notice regarding these cuts to NOAA staffing, its work on these issues and
 14 others is now in jeopardy. Ecology had no advance opportunity to plan for doing this work
 15 without NOAA support. And, again, some of this work simply cannot be done without the help
 16 of NOAA staffers that have now been cut.

17 37. The aforementioned impacts are only some of the ways that Ecology and
 18 Washington have been harmed by these unexpected cuts.

19 I declare under penalty of perjury under the laws of the State of California and the
 20 United States of America that the foregoing is true and correct.

21

22

23

1 DATED and SIGNED this 5th day of March 2025 at Tacoma, Washington.

2 

3 JENNIFER HENNESSEY
4 Special Assistant to the Director

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23